

REMARKS

Claims 5, 6, 14, 19, and 20 are pending. In an office action dated 28 March 2008, Examiner Casey Hagopian finally rejected all claims for the reasons discussed below. The Applicant is grateful for the withdrawal of the previous claims rejections under §102, and offers the above amendments and remarks below in response.

Upon entry of this amendment, Claim 6 will be amended.

Objections to the Claims

Claim 6 has been amended by the addition of a final period. The applicant thus respectfully requests that the objection to Claim 6 be withdrawn.

Claim Rejections Under 35 USC §103(a)

Claims 5, 6, 14, 19, and 20 stand rejected under 35 USC §103(a), as allegedly being unpatentable over Ashley et al. (US 2003/0045711 A1) in view of Carlyle et al. (US 2002/0127263 A1).

The examiner argues that

one of ordinary skill in the art would have been motivated to either replace or combine compounds taught in the relevant art as being able to treat the same disorder because they are appreciated as equivalents among the art.

The Examiner fails to appreciate the unexpected synergism demonstrated by the combination of epothilone D and rapamycin. This is evidenced in the specification by the data in Figures 5 and 7. Figure 7, for example, clearly shows the synergy between epothilone D (therein labeled "KOS-862") and rapamycin. Synergy is particularly important when dealing with medical devices such as coated stents, given the limitation on the amounts of drugs that may be delivered by the medical device. As synergy between drugs is unpredictable, the simple fact that two drugs may be used to treat the same disorder in no way makes them equivalent. Further, if the combination of rapamycin and epothilone D is non-obvious, a medical device configured to deliver such a combination must also be non-obvious.

Independent Claim 14 is drawn to a composition comprising a polymer, epothilone D, and rapamycin. If the combination of epothilone D and rapamycin is non-obvious, that the combination of these two drugs with a polymer must also be non-obvious.

The Applicant respectfully requests that the claims rejections under 35 USC §103 be withdrawn.

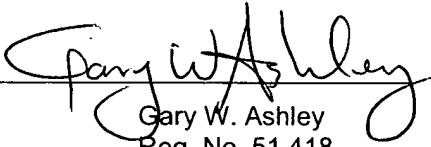
Summary

Claim 6 is amended. No new matter has been added. The applicant respectfully requests withdrawal of the objections and rejections and allowance of the claims.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-2544** referencing docket no. 010083.02.

Respectfully submitted,

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